IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA.

APPEAL FROM ORDER NO. 61 OF 2006

Smt. Laxmi Jairam Dhond,
Widow of late Jairam Sagoon Dhond,
R/o C-2, Unique Building,
St. Inez, Panaji-Goa. .... Appellant

Versus

1. Smt. Sushila D. Amonkar,
major, Indian National,
R/o Mala, Goa.

1(a) Shri Nilesh Amonkar,
son of Smt. Sushila D. Amonkar,
r/o. Kamat Kinara,
Miramar, Panaji Goa.

1(b) Smt. Sonali N. Amonkar,
major, wife of Shri Nilesh Amonkar,
r/o Miramar, Panaji Goa.

1(c) Ms. Sunanda Amonkar,
major, daughter of
Smt. Sushila Amonkar,
r/o House No. 70,
Mala, Panaji Goa.

2. Smt. Pramilabai S. Dhond,
Major, R/o House No. 70,
Mala, Panaji Goa.

3. Smt. Ramabai alias Mangala
Atmaram Mahambre,
Major, r/o Sunita Niwas,
Ansabhat, Mapusa Goa.

4. Smt. Sarojini A. Mahambre,
Major, r/o Sunita Niwas,
Ansabhat, Mapusa Goa. .... Respondents

Mrs. A.A. Agni with Mrs. N.N. Narvekar, Advocate for the Appellant.

Shri S.D. Lotlikar, Sr. Advocate with Ms. Shambhavi Rao, Advocate for Respondents.

CORAM : **P. V. KAKADE, J.**

DATE **: 4th October, 2006**

ORAL JUDGMENT :

Rule. Rule made returnable forthwith.

2. Heard both sides. Perused the record. The appellant has impugned the order passed by the Civil Judge, Senior Division, Panaji dated 14/02/2006, rejecting the objections raised by interested parties to list of assets in an Inventory Proceeding, filed by them.

3. The appellant filed an Inventory Proceeding upon the death of late Jairam Dhond. In the midst of this Inventory Proceeding, list of assets were filed at exhibit M-27 dated 4/07/2003 and as per prevalent law interested parties were given opportunity to file their objections and

accordingly the objections of the interested parties were filed at exhibit 31 dated 6/03/2004.

4. It was objected to by the Cabeca de Casal that objections were not filed within specific time when the list of assets came to be filed on 1/07/2003 and objections came to be filed on 6/03/2004 which was beyond the prescribed period of filing objections. On such grounds as well on merits, the objections came to be rejected and hence, the present appeal.

5. The only question involved in this appeal is whether the trial Court ought to have seen that the objections filed by the appellant were in terms of Article 1383 of the Civil Procedure Code, applicable to the Inventory Proceeding and the question had to be decided after evidence is laid and necessary information is obtained. It was further submitted on behalf of the appellant that the trial Court could not have given finding on merits of the objections that too without following his procedure as laid down under article 1383, when the trial Court was duty bound to hold an inquiry in the matter. In other words, it is submitted that the order is passed without any inquiry, though appellant was entitled to lead evidence in the course of the inquiry.

6. Perusal of the entire record shows that the reply of the interested parties was filed at a very belated stage and there was no sufficient ground made out as to why the objections were filed at a belated stage. Further, the objections raised by the interested parties are seen to be without any substantive supporting proof to justify the objections. Also there is no cogent and tangible evidence produced on record as to how their objections to item nos. 2, 5 and 6 survive. In my considered view, the proper Article applicable to the present dispute, under the present facts and circumstances would be Article 1379 and not 1383. Once the lists of the properties were submitted or the time limit within which they should have been submitted has expired, the file shall be made available, for examination, for forty-eight hours, to each of the heirs who have appointed advocate, as per order of their appointment, thereafter to the advocate of the donee and of the administrator, and finally inspection shall be given, for the same period to the Public Prosecutor, when the inventory is of orphan's jurisdiction. Therefore, in the present case before us, the time which was required to be granted after filing of the list was of forty-eight hours, during which inspection could be made and, thereafter, bar of Article 1379 has come into play.

7. Be as it may, the fact remains that the impugned order passed by the lower Court is seen to be just, legal and proper and, therefore, it would brook no interference. In the result, rule is discharged. Appeal stands dismissed with no orders as to costs. Interim relief granted, pending the appeal stands vacated.

P.V. KAKADE, J.

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